

ORDINANCE NO. O-8-06

AN ORDINANCE ESTABLISHING ZONING OF APPROXIMATELY 182.81725  
ACRES OF LAND, CURRENTLY KNOWN AS PARCELS  
P600, P445, P820, P905, P833 and N094,  
LOCATED AT THE SOUTHWEST SIDE OF FIELDS ROAD, BOUNDED BY SAM  
EIG HIGHWAY TO THE NORTHWEST AND OMEGA DRIVE TO THE SOUTHEAST  
IN THE CITY OF GAITHERSBURG, MARYLAND,  
TO THE MXD (MIXED USE DEVELOPMENT) ZONE,  
IN ACCORDANCE WITH §24-160D  
AND §24-10A (FLOATING ZONES) OF THE CITY CODE  
AND APPROVE A SKETCH PLAN

**X-182 Crown Farm**

Annexation Resolution R-82-06 for Application X-182, filed by Crown Village Farm, LLC, Catherine C. Stinson and Clyde A. Stinson, authorizes the annexation by the City of Gaithersburg (the "City") of Parcels P600, P445, P820, P905, P833 and N094, totaling 182.81725 acres (the "Subject Property"). At the time of annexation, the City seeks to zone the Subject Property from Montgomery County's R-60/TDR, R-200, and R-200/TDR zones to the City of Gaithersburg's MXD (Mixed Use Development) Zone (the "Zoning Application"). The Subject Property consists of 176.20829 acres owned by Crown Village Farm, LLC ("Crown Village"), 0.15773 acres owned by Meridian/Northwestern Shady Grove West, LLC, and 6.45123 acres of rights-of-way owned by Montgomery County, as more fully described in Exhibit A to this ordinance, made a part hereof.

On December 1, 2005, a Sketch Plan, required as part of the classification of the Subject Property to the MXD Zone, was filed in furtherance of the zoning of the Subject Property to the MXD Zone.

The City of Gaithersburg City Council ("City Council") and the Gaithersburg Planning Commission (the "Planning Commission") conducted a joint public hearing on February 6, 2006, in conjunction with the Application and reviewed the MXD Sketch Plan.

The Sketch Plan has been revised to reflect modifications desired by the City and deemed by the City as fully complying with all requirements of Section 24-160D.1, *et seq.*, of the zoning ordinance (the "Revised Sketch Plan"). The Revised Sketch Plan proposes a mix of uses, including 2,250 residential units in a variety of dwelling types, and 320,000 square feet of commercial/retail development and is attached as Exhibit "D" to the Annexation Agreement applicable to the Subject Property (the "Annexation Agreement").

Article 23A, Section 9(c) of the Annotated Code of Maryland provides that no municipality annexing land may, for a period of five years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted County Master Plan without express approval of the County Council. The applicable County Master Plan, the *July 1990 Shady Grove Study Area Master Plan*, recommends a multi-use project on the Subject Property, including 2,000 residential units, plus moderately priced dwelling units, and 50,000 square feet of retail/commercial development to be developed in the County's R-200/TDR and PD-20-25 Zones.

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (the "Planning Board"), in its report to the County Council of March 31, 2006, recommended that the County Council consent to the City's request to reclassify the Subject Property from the County's R-60/TDR, R-200, and R-200/TDR zones to the City's Mixed Use Development (MXD) Zone, subject to certain issues being satisfied in an annexation agreement.

Thereafter, on April 3, 2006, the Montgomery County Council Planning, Housing and Economic Development Committee (the "Committee") reviewed the annexation petition and recommended that the requested reclassification to the MXD Zone to permit 2250 residential units and 320,000 square feet of commercial/retail development, be expressly approved by the County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District within Montgomery County (the "District Council") provided certain public policy considerations related to traffic mitigation, right of way dedications, moderately priced dwelling units, preservation of agriculture, historic preservation, and legal issues were satisfied.

On April 18, 2006 and April 25, 2006, the District Council reviewed the annexation petition and zoning proposed by the City, including the recommendations of the Planning Board and Committee, and on April 25, 2006, the District Council adopted Resolution No. R-15-1428, expressly approving the zoning by the City of Gaithersburg of the Subject Property from the County's R-60/TDR Zone, R-200 and R-200/TDR Zones to the City's MXD Zone in accordance with the requirements of Article 23A, Section 9(c), of the Annotated Code of Maryland.

The Planning Commission's record closed on April 14, 2006 and the Commission made its recommendation on April 19, 2006, and forwarded their recommendation of approval of the annexation and Zoning Application and accompanying Sketch Plan, which included fifteen (15) recommended terms for the Annexation Agreement, to the City Council. The City Council closed their record on August 2, 2006.

On August 7, 2006, the City Council carefully reviewed the evidence of record, including 197 exhibits, and considered all submitted testimony, documents and correspondence presented at the public hearing, subsequent work sessions and during the open record period. The City Council has also carefully considered the Planning Commission's recommendations for approval and agrees with the Planning Commission's findings and recommendations. The City Council made the following findings with respect to the Zoning Application and Revised Sketch Plan (collectively, the "Application"):

1. As required by Section 24-10A of the City of Gaithersburg Zoning Ordinance, the City Council finds that (a) the Application complies with the purposes and intent of the MXD Zone, as stated in the zoning ordinance; and (b) as applied will be compatible and harmonious with existing and planned land uses in the surrounding area to the Subject Property in the following manner:
  - a. Classification in the City's MXD floating zone provides the Staff, Planning Commission, Mayor and City Council and the developer the ability to craft a higher quality, mixed-use product.
  - b. Development under the MXD Zone provides the City with tools to address important master planning objectives and guidelines, both existing and currently under discussion, for the implementation of a comprehensively planned, multi-use project and facilitate the implementation of other relevant planning and

- development policies and guidelines of the City, including transit accessibility, to reduce reliance of automobiles, preservation of environmentally sensitive stream valleys, enhancement of recreational amenities, and encouragement of pedestrian and other non-vehicular circulation systems.
- c. Development under the MXD Zone provides the City with phasing tools to encourage orderly, staged development by providing for various zoning and plan approvals, including development phasing.
  - d. Development under the MXD Zone provides the City with both greater controls and more flexibility (including mixing of uses and setbacks) to produce a better finished product than would be available under conventional categories.
  - e. The proposed development integrates residential, commercial and public uses in a manner that could not be accomplished under other conventional zone categories.
  - f. The Subject Property is surrounded by properties developed under a variety of zones, including the MXD Zone, and the use of the MXD Zone will best permit the development of a plan that maximizes both external and internal compatibility. Through the review and approval of design guidelines, a superior quality of development is ensured, as well as flexibility and co-ordination of architectural style of buildings and signage.
  - g. Development under the MXD Zone allows for a mix of residential, retail offices, and institutional uses located in a manner convenient to each other on a pedestrian level, will provide better linkages, including a comprehensive non-vehicular circulation network separated from vehicular roadways, and the opportunity to obtain important public uses such as a future high school site, right-of-way for the future transit line and transit stop, and a neighborhood park.
  - h. The Application will be internally compatible and integrated. The range of housing types and densities will be internally compatible and supported by on-site commercial uses, providing an integrated form of development convenient to each other and well connected by pedestrian linkages.
  - i. The Application encourages the efficient use of land by locating commercial uses convenient to residential areas, thereby reducing reliance on automobile use and encouraging pedestrian and non-vehicular circulation systems. Reliance on the automobile is further reduced as a result of the ability to concentrate development near the planned Corridor Cities Transitway (the "CCT") alignment and the provision of shuttle bus service to Metro.
  - j. Development under the MXD Zone provides the City with the tools to provide maximum useable open space and active recreation areas close to employment and residential populations.
  - k. The application will be compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas. The Subject Property will provide a range of uses, complimenting existing and proposed uses in the surrounding area. Existing and planned land uses in the surrounding area include office, residential and retail uses. The proposed development will provide additional commercial and residential opportunities for these

surrounding uses and compliment the adjacent existing Rio/Washingtonian Center area. The proposed development will be designed to provide both vehicular and non-vehicular access to and linkage from surrounding and adjacent areas.

Based upon the evidence of record and for the reasons expressed herein, the City Council further finds, in accordance with Section 24-160D.1 and Section 24-160D.10(a) of the zoning ordinance, the following:

2. The Application accomplishes the purposes and objectives of the MXD Zone, as stated above, and complies with the minimum standards and requirements of the MXD Zone, including the ten (10)-acre minimum area requirement of the MXD Zone by containing approximately 183 acres. The Application provides orderly staged development through a phasing schedule and fully integrates commercial, residential, open spaces and community facilities within the development. Further, employment and retail uses are located near residential and the Subject Property is located adjacent to and is readily accessible from Fields Road and Sam Eig Highway that are adequate to serve the proposed development with the required improvements based upon accepted traffic studies, and is further enhanced by a future transit line, on-site transit stop and a required shuttle bus program to the Shady Grove Metro Station. Public water and sewer service currently serves adjacent development and is available to this site. No inadequacy or other concerns with respect to the provision of these facilities has been identified in the record. A high school is planned for an area of the Subject Property to be donated by the Crown Village and will provide additional school capacity in the City. The City Council finds that the Montgomery County School Board has indicated that existing school facilities are adequate to accommodate the development proposed for the Subject Property.
3. The Application is in accord with all applicable recommendations of the applicable master plans and consistent with any requirements in said master plans. In this regard, the Application complies with several of the themes and land use policy guidelines contained in the City's 2003 Master Plan and the classification of the Subject Property to the City's MXD Zone was expressly approved by the District Council in Resolution 15-1428. The Application provides for the extension of Decoverly Drive and Diamondback Drive from their present terminus at the southern boundary of the Subject Property, to Fields Road, the dedication of right-of-way for the CCT transitway alignment and one station, provision of future transit parking accessible to the planned station, provision of off-site pedestrian linkages, and significant contributions to regional recreation activities and agricultural preservation.
4. The Application will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas. The range of housing types and densities will be internally compatible and supported by on-site commercial uses, providing an integrated form of development. The site will have a full range of uses existing and proposed in the surrounding area including a mix of residential and commercial/retail uses. The Subject Property is located adjacent to a major road system, including I-370 and I-270, and will have readily available access linkages to that road system. The proposed development will provide additional commercial and residential opportunities for these surrounding uses and compliment the existing Rio/Washingtonian Center area.

For the reasons expressed herein, the City Council further finds that reclassification of the Subject Property to the MXD Zone will be in the public interest and is proper for the comprehensive and systematic development of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Gaithersburg, in public meeting assembled, that the Subject Property, more particularly described in Exhibit A to this ordinance, being land annexed to the City by Resolution No. R-...06 be, and it hereby is, classified in the MXD (Mixed Use Development) Zone.

NOW THEREFORE, BE IT FURTHER ORDAINED by the City Council of the City of Gaithersburg, in public meeting assembled, the Revised Sketch Plan, being Exhibit "D" of the Annexation Agreement (which includes the Land Use Plan, Boundary Survey, Surrounding Uses and Road Network Plan, Phasing Plan, and Natural Resources Inventory/Forest Stand Delineation) is hereby approved in accordance with and subject to compliance with the requirements and additional details contained in the Annexation Agreement, including the following, as the same are more particularly described in the Annexation Agreement:

#### **A. Permitted Development**

A mix of uses, including 2,250 residential units and 320,000 square feet of commercial/retail development. The residential unit mix and commercial/retail development for the development pods identified in the Revised Sketch Plan (the "Pods") as "Pod 1," "Pod 2," "Pod 3," and "Pod 5" are to be as follows:

1. **Pod 1** – a total of 820 to 867 dwelling units, consisting of a range of 40 to 50 units contained in three (3)-story multi-family buildings (exclusive of ground floor uses) located over Commercial/Retail Development, up to 700 units contained in four (4)-story multi-family buildings (exclusive of ground floor uses) located over Commercial/Retail Development, 20 to 30 2-over-2 units, and 70 to 80 single-family units (excluding 2-over-2 units), of which up to 6 may be single-family detached units; up to 300,000 square feet of gross leasable area of Commercial/Retail Development.
2. **Pod 2** – a total of 310 to 325 dwelling units, of which 59 to 98 may be single-family detached units, 155 to 228 may be single-family attached units (excluding 2-over-2 units), and 31 to 65 may be 2-over-2 units;
3. **Pod 3** – a total of 280 to 290 units, of which 95 to 131 may be single-family detached units, 126 to 162 single-family attached units (excluding 2-over-2 units), 28 to 44 2-over-2 units; and
4. **Pod 5** – a total of 768 to 1,010 multi-family units; multi-family buildings in Pod 5 that are 4 to 20 stories in height and that may include ground floor Commercial/Retail Development; up to 20,000 square feet of gross leasable area of Commercial/Retail Development in Pod 5.

#### **B. Development Phasing**

Crown Village to receive an allocation of 225 building permits per year for the Residential Development in Pods 1, 2 and 3 during each of the first six (6) years after the date of the Annexation Agreement, or until building permits for all of the residential units in Pods 1, 2, and 3 are issued.

### **C. Moderately Priced Dwelling Units**

Crown Village to provide twelve and one-half percent (12.5%) of the residential units on the Subject Property in compliance with the standards and requirements of the Moderately Priced Dwelling Unit Law of Montgomery County, Chapter 25A, Montgomery County Code.

### **D. Workforce Housing**

Crown Village to construct certain workforce housing as part of the residential development on the Subject Property. In Pods 2 and 3, four percent (4%) of the single-family attached units and four percent (4%) of the 2-over-2 units will be "Workforce Housing Units." In Pod 1, the number of workforce housing units to be provided shall equal four percent (4%) of the total number of single-family attached, 2-over-2, and multi-family units to be constructed in Pod 1.

### **E. Transitway Dedication and Parking**

1. Crown Village to provide for the dedication of that portion of the right-of-way and one transit stop for the CCT on the Subject Property at the location shown on Exhibit "E" (the "Transit Project Dedication Area") of the Annexation Agreement, not to exceed 4.2 acres.
2. Crown Village to provide 250 parking spaces (the "Transit Parking Spaces") to be located in the future Pod 5 parking facility(ies) to the Maryland Transit Administration of the Maryland Department of Transportation ("MTA") for MTA's use in connection with the operation of the CCT on the Property.

### **F. On-Site Roadways**

Crown Village to dedicate and construct the following roadways within the boundaries of the Subject Property at the locations generally shown for such roadways on Exhibit "F", to include Diamondback Drive, Discoverly Drive, the "Spine Road," and other internal subdivision streets as schematically shown on Exhibit "F" of the Annexation Agreement.

### **G. LEED Certification**

1. Crown Village to design the Community Recreation Building in Pod 3 to comply with the now existing LEED (Leadership in Energy and Environmental Design) Green Building for New Construction Certified Level (i.e., qualifying for 26 points pursuant to the LEED Rating System for New Construction and Major Renovation, Version 2.2, developed by the Green Buildings Council [the "LEED Rating System"]).
2. Any builder-installed kitchen appliances, washers, dryers and applicable HVAC equipment in all units of the residential development shall equal or exceed the standards for Energy Star rated appliances in effect as of the date of this Ordinance.

### **H. School Site Dedication**

Crown Village has agreed to donate to Gaithersburg a parcel of land from the Subject Property, not to exceed 32.1 acres, at the location shown in the Approved Sketch Plan and as otherwise generally shown on Exhibit "K" to the Annexation Agreement (the "School

Site”), for the use and construction of a public high school by Montgomery County Public Schools (“MCPS”).

**I. Neighborhood Park Dedication**

Crown Village to dedicate a neighborhood public park to Gaithersburg in the location shown on the Approved Sketch Plan (the “Neighborhood Park”) and more particularly shown on Exhibit “J” of the Annexation Agreement. The area to be dedicated for the Neighborhood Park shall contain approximately 5 acres.

**J. Historic Structure**

Crown Village to preserve and improve the existing main farmhouse located at 9800 Fields Road and the associated tenant log house.

**K. Traffic Mitigation**

Crown Village to include a shuttle bus program (the “Shuttle Bus Program”) as part of a “Traffic Mitigation Plan.” The Shuttle Bus Program will provide for the operation and funding by Crown Village, its successors or assigns, of a private shuttle bus service to the Shady Grove Metro Station and provision of other transit management components to serve the development on the Subject Property.

**L. Contribution to the Montgomery County Agricultural Land Preservation Easement Fund**

Crown Village to make a total contribution of \$2,000,000 to the Montgomery County Agricultural Land Preservation Easement Fund. The payments shall be made by Crown Village or its designees in four (4) equal installments in accordance with a plat recordation schedule.

**M. Regional Recreation Contribution**

Crown Village to make a contribution to the City in the total amount of \$5,000,000 for off-site regional recreation improvements and amenities to be used at Gaithersburg’s discretion (the “Regional Recreation Contribution”).

**N. Public Art**

Crown Village to participate in Gaithersburg’s Public Art Program. As its total contribution under the Public Art Program, Crown Village shall be obligated to commit \$150,000 for public art in Pod 1 and \$50,000 for public art in Pods 2 and 3.

**O. Bus Shelters and Off-Site Sidewalk Connections**

1. Crown Village to contribute \$30,000 to Gaithersburg prior to issuance of the initial building permit for new construction on the Subject Property of four (4) bus shelters to serve the development on the Subject Property.
2. Crown Village to design and construct not more than four (4) off-site sidewalk connections to the Subject Property at the locations generally shown on Exhibit “L-1” [the “Off-Site Sidewalk(s)”] of the Annexation Agreement.

**P. Off-Site Road Improvements**

Crown Village to construct or participate in the cost of the Off-Site Roadway Improvements identified on Exhibit "G" to the Annexation Agreement.

**Q. Design Guidelines**

Crown Village shall prepare Design Guidelines for the development of the Subject Property for approval by the City.

ADOPTED by the City Council this 7<sup>th</sup> day of August, 2006.

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SIDNEY A. KATZ, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this day 7<sup>th</sup> of August, 2006. APPROVED by the Mayor of the City of Gaithersburg, this 7<sup>th</sup> day of August, 2006.

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SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, on the 7<sup>th</sup> day of August, 2006, and that the same was approved by the Mayor of the City of Gaithersburg on the 7<sup>th</sup> day of August, 2006. This Ordinance will become effective on the 21<sup>st</sup> day of September, 2006.

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Frederick J. Felton, Acting City Manager